

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 27TH NOVEMBER 2006 / 6TH AGRAHAYANA 1928

WP(C).No. 31339 of 2006(E)

OS.3/2006 of MUNSIF COURT, MAVELIKKARA
.....

PETITIONERS:

1. SOMAN NAIR, S/O. RAGHAVA KURUP,
SHOBHA SADANAM, CHATHIYARA MURI,
THAMARAKULAM VILLAGE.
2. SOBHANAKUMARI, W/O. SOMAN NAIR,
IN -DO- -DO-

BY ADV. SRI.S.V.BALAKRISHNA IYER
SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN
SRI.R.PADMAKUMAR

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY
THE DISTRICT COLLECTOR, ALAPPUZHA.
2. THE REVENUE DIVISIONAL OFFICER,
(SUB DIVISIONAL MAGISTRATE), CHENGANNUR.
3. THE VILLAGE OFFICER,
THAMARAKKULAM.
4. MURALEEDHARAN PILLAI @ VENU,
RESIDING AT VANDANAM VEEDU, CHATHIYARA MURI,
THAMARAKULAM VILLAGE.
5. BAIJU KALASALA,
RESIDING AT KALABHAVANAM HOUSE,
MEKKUMMURI, THAMARAKULAM VILLAGE.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27/11/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

M.SASIDHARAN NAMBIAR, J.

W.P.(C)NO. 31339 OF 2006

DATED THIS THE 27th DAY OF NOVEMBER, 2006

JUDGMENT

Petitioners are the plaintiffs in O.S.3/06 on the file of Munsiff Court, Mavelikkara. Respondents 1 to 3 are the defendants. Respondents 4 and 5 are additional defendants who were impleaded at their instance as per Ext.P10 order in I.A. 1261/06. This petition is filed under Article 227 of Constitution of India contending that Court below should not have allowed respondents 4 and 5 to get themselves impleaded in the suit against the wishes of petitioners, who are the masters of the plaint and therefore Ext.P10 order is to be quashed.

2. Learned Counsel appearing for petitioners vehemently argued that petitioners though Ex-President and Vice President of the Panchayat have no right to get themselves impleaded in the suit and there is nothing before the Court to doubt that defendants will not contest the suit and in such circumstances, Ext.P10 order is to be quashed.

3. The question is, whether in exercise of the extraordinary jurisdiction of this Court under Article 227 of Constitution of India, Ext.P10 order whereunder learned Munsiff has exercised his discretion and allowed petitioners to get

themselves impleaded as additional defendants in the suit is to be interfered with or not.

4. The argument of learned Counsel appearing for petitioners is that even if the Court later on finds that the case is not being defended properly then only Court need to consider the question whether respondents 4 and 5 are to be impleaded or not and without any material at this stage they should not have been impleaded.

5. The suit is filed only as against the Government, the Revenue Divisional officer and Village Officer without impleading the Panchayat. According to learned Counsel appearing for petitioners, petitioners proposed to implead the Panchayat. Even according to the petitioners, it was at the instance of the Panchayat, Government has taken the action, which is challenged in the suit. The grievance of respondents 4 and 5 is that because of the change of the ruling party in the Panchayat, and petitioners also members of the ruling political party, the Panchayat may not properly contest the suit and in such circumstances, they are to be impleaded in the suit. Learned Munsiff has exercised his discretion. I do not find any valid reason to interfere with that order.

Petition dismissed.

M.SASIDHARAN NAMBIAR, JUDGE

Acd

